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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on 26th November, 2001.

BILL NO. 105 OF 2001

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Ninety-second Amendment) Act, 2001.

Short title and
commencement.

(2) It shall be deemed to have come into force on the 17th day of June, 1995.

2. In article 16 of the Constitution, in clause (4A), for the words “in matters of promotion to any class”, the words “in matters of promotion, with consequential seniority, to any class” shall be substituted.

Amendment
of section 16.

STATEMENT OF OBJECTS AND REASONS

The Government servants belonging to the Scheduled Castes and the Scheduled Tribes had been enjoying the benefit of consequential seniority on their promotion on the basis of rule of reservation. The judgments of the Supreme Court in the case of Virpal Singh Chauhan (1995) 6 SCC 684 and Ajit Singh No. 1 AIR 1996 SC 1189, which led to the issue of the O.M. dated 30th January, 1997, have adversely affected the interest of the Government servants belonging to the Scheduled Castes and Scheduled Tribes category in the matter of seniority on promotion to the next higher grade. This has led to considerable anxiety and representations have also been received from various quarters including Members of Parliament to protect the interest of the Government servants belonging to Scheduled Castes and Scheduled Tribes.

2. The Government has reviewed the position in the light of views received from various quarters and in order to protect the interest of the Government servants belonging to the Scheduled Castes and Scheduled Tribes, it has been decided to negate the effect of O.M. dated 30th January, 1997 immediately. Mere withdrawal of the O.M. dated 30th January, 1997 will not meet the desired purpose and review or revision of seniority of the Government servants and grant of consequential benefits to such Government servants will also be necessary. This will require amendment to article 16(4A) of the Constitution to provide for consequential seniority in the case of promotion by virtue of rule of reservation. It is also necessary to give retrospective effect to the proposed constitutional amendment to article 16(4A) with effect from the date of coming into force of article 16(4A) itself, that is, from the 17th day of June, 1995.

3. The Bill seeks to achieve the aforesaid objects.

NEW DELHI;

VASUNDHARA RAJE.

The 19th November, 2001.

BILL NO. 110 OF 2001

A Bill to repeal the Essential Services (Maintenance) Ordinance, 1941.

BE it enacted by Parliament in the Fifty-second Year of the Republic of India as follows:—

1. This Act may be called the Essential Services (Maintenance) Ordinance Repeal Act, 2001. Short title.

2. The Essential Services (Maintenance) Ordinance, 1941 is hereby repealed. Repeal of Ord.
XI of 1941.

STATEMENT OF OBJECTS AND REASONS

The Essential Services (Maintenance) Ordinance, 1941 was promulgated by the Governor General of India on the 19th December, 1941 to make provisions for the maintenance of certain essential services. The said Ordinance was published in the Gazette of India, Extraordinary, dated the 10th December, 1941 and is of permanent nature as it was promulgated during the period when the time limit prescribed under section 72 of the Government of India Act, 1935, for operation of such Ordinances, *i.e.*, six months from the date of promulgation, had been omitted by section 1(3) of the India and Burma (Emergency Provisions) Act, 1940.

2. Subsequently, the Government of India enacted the Essential Services (Maintenance) Acts in the years 1968 and 1981. These Acts lapsed on expiry of their life span. Further, the Essential Services (Maintenance) Ordinance, 1941 was not repealed by these Acts and the said Ordinance is continuing on the statute books. Since the Essential Services (Maintenance) Acts subsequently enacted have been allowed to lapse, the Essential Services (Maintenance) Ordinance, 1941 has also become redundant.

3. The P.C. Jain Commission of review of Administrative Laws, which was set up by the Government of India has recommended the repeal of the Ordinance mentioned above.

4. In view of the preceding background, the Essential Services (Maintenance) Ordinance, 1941 is proposed to be repealed.

5. The Bill seeks to achieve the above object.

NEW DELHI;
The 9th November, 2001.

L.K. ADVANI.

BILL NO. 106 OF 2001

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Ninety-third Amendment) Act, 2001. Short title and commencement.
(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. After article 21 of the Constitution, the following article shall be inserted, namely:— Insertion of new article 21A. Right to education.
"21A. The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine."
3. For article 45 of the Constitution, the following article shall be substituted, namely:— Substitution of new article for article 45. Provision for early childhood care and education to children below the age of six years.
"45. The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years."
4. In article 51A of the Constitution, after clause (j) the following clause shall be added, namely:— Amendment of article 51A.
"(k) who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years."

STATEMENT OF OBJECTS AND REASONS

The Constitution of India in a Directive Principle contained in article 45, has made a provision for free and compulsory education for all children up to the age of fourteen years within ten years of promulgation of the Constitution. We could not achieve this goal even after 50 years of adoption of this provision. The task of providing education to all children in this age group gained momentum after the National Policy of Education (NPE) was announced in 1986. The Government of India, in partnership with the State Governments, has made strenuous efforts to fulfil this mandate and, though significant improvements were seen in various educational indicators, the ultimate goal of providing universal and quality education still remains unfulfilled. In order to fulfil this goal, it is felt that an explicit provision should be made in the Part relating to Fundamental Rights of the Constitution.

2. With a view to making right to free and compulsory education a fundamental right, the Constitution (Eighty-third Amendment) Bill, 1997 was introduced in Parliament to insert a new article, namely, article 21A conferring on all children in the age group of 6 to 14 years the right to free and compulsory education. The said Bill was scrutinised by the Parliamentary Standing Committee on Human Resource Development and the subject was also dealt with in its 165th Report by the Law Commission of India.

3. After taking into consideration the report of the Law Commission of India and the recommendations of the Standing Committee of Parliament, the proposed amendments in Part III, Part IV and Part IVA of the Constitution are being made which are as follows:—

(a) to provide for free and compulsory education to children in the age group of 6 to 14 years and for this purpose, a legislation would be introduced in Parliament after the Constitution (Ninety-third Amendment) Bill, 2001 is enacted;

(b) to provide in article 45 of the Constitution that the State shall endeavour to provide early childhood care and education to children below the age of six years; and

(c) to amend article 51A of the Constitution with a view to providing that it shall be the obligation of the parents to provide opportunities for education to their children.

4. The Bill seeks to achieve the above objects.

NEW DELHI;

MURLI MANOHAR JOSHI.

The 16th November, 2001.

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to insert a new article 21A in the Constitution, which makes the State responsible for providing free and compulsory education to all children in the age group 6 years to 14 years. Thus, it would become the duty of the State to provide easily accessible facilities for quality elementary education to all children in this age group.

2. The total overall financial burden due to implementation of obligations under the proposed provision would be about Rs. 9,800 crores per annum to be shared between Central and State Governments. In a ten year period, this is estimated at Rs. 98,000 crores.

G. C. MALHOTRA
Secretary-General.

